

EV 671823854 US

August 5, 2005

Date of Deposit

By: _____

¹ Sarah M. Barnett

Customer No. 22,852

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Confirmation No. 8264

FIFTH NOTICE REGARDING RELATED LITIGATION

Application Serial No. 08/338,567, originally filed as PCT/AU93/00230 on May 19, 1993, which entered the national stage on January 12, 1995, and which issued as U.S. Patent No. 5,830,887 on November 3, 1998. One of the patents in suit, U.S. Patent No. 6,562,380 (“the ’380 patent”) issued from U.S. Application No. 08/910,837 on May 13, 2003, and was originally filed on August 13,

1997, as a continuation of U.S. Application No. 08/338,567, which entered the national stage on January 12, 1995, and issued as U.S. Patent No. 5,830,887. A second patent in suit, U.S. Patent No. 6,642,212 B1 ("the '212 patent") issued from U.S. Application No. 09/421,069 on November 4, 2003, and was originally filed on October 19, 1999, as a continuation of U.S. Application No. 08/910,837, filed August 13, 1997, now U.S. Patent No. 6,562,380 B1. Application Nos. 08/338,567, 08/910,837, and 09/412,069 are assigned to Novogen Research Pty. Ltd.

Applicant previously submitted four Notices Regarding Related Litigation, dated September 19, 2003, December 23, 2003, April 15, 2004, and January 21, 2005, informing the Office that on June 3, 2003, Solae, L.L.C. ("Solae") filed a Complaint alleging that Archer Daniels Midland Company ("ADM") and Amerifit Nutrition, Inc. ("Amerifit") infringe at least one claim of U.S. Patent No. 6,562,380 ("the '380 patent") and U.S. Patent No. 5,990,291 ("the '291 patent"). The case, Civil Case No. 4:03-CV-00732 HEA, was filed in the U.S. District Court for the Eastern District of Missouri ("Solae I"). The '380 patent is described above. The '291 patent is a divisional of U.S. Application No. 09/086,658, filed on May 29, 1998, now U.S. Patent No. 5,919,921, which is a continuation-in-part of Patent Application No. 08/661,845, filed on June 11, 1996, now U.S. Patent No. 5,821,361.

Applicant also informed the Office that on November 4, 2003, Solae filed a separate Complaint alleging that ADM and Amerifit infringe at least one claim of U.S. Patent No. 6,642,212 B1 ("the '212 patent"). The case, Civil Case No. 4:03-CV-01595 HEA, was filed in U.S. District Court for the Eastern District of Missouri ("Solae II"). The '212 patent is described above in the first paragraph on page 2. In this Complaint Solae also alleged infringement of U.S. Patent No. 6,664,382 B1 ("the '382 patent"). On January 29, 2004, Solae filed a Second

Supplemental Complaint adding a claim of infringement of U.S. Patent No. 6,680,381 ("the '381 patent") to the earlier allegations of infringement of the '212 and '382 patents.

We note the following events in the Solae litigation, which were omitted from the previous Notices or occurred since the events summarized in our previous Notice Regarding Related Litigation of January 21, 2005.

The parties have settled, and filed a Joint Stipulation of Dismissal on February 14, 2005, for Case No. 4:03CV00732 HEA (consolidated with 4:03CV01595 HEA).

REMARKS

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 5, 2005

By: Jean Burke Fordis
Jean Burke Fordis
Reg. No. 32,984

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SOLAE, LLC,)	
)	
Plaintiff/Counterclaim Defendant,)	
)	
vs.)	Case No. 4:03CV00732 HEA
)	(consolidated with 4:03CV01595HEA)
ARCHER DANIELS MIDLAND COMPANY)	
and AMERIFIT NUTRITION, INC.)	
)	
Defendants/Counterclaim Plaintiffs.)	

JOINT STIPULATION OF DISMISSAL

Pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, Plaintiff Solae, LLC ("Solae") and Defendants Archer Daniels Midland Company ("ADM") and Amerifit Nutrition, Inc. ("Amerifit"), by and through their undersigned counsel, hereby stipulate to the dismissal with prejudice of all claims and counterclaims in the above-styled action, including Solae's claims against ADM and Amerifit, ADM's counterclaims against Solae, and Amerifit's counterclaims against Solae. Each party will bear its own attorneys' fees and costs.

Respectfully submitted this 14th day of February, 2005.

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